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SUBJECT: Prime Minister's Edict on Religion-Related Land and Facilities

¶1. (SBU) In the wake of sustained land-use protests involving Catholic parishioners throughout 2008, PM Nguyen Tan Dung recently issued a four-page edict concerning "religion-related land and facilities." (See paragraph four for an unofficial translation.) The edict specifies that government agencies or State Owned Enterprises that occupy properties previously owned by religious groups must use the properties in a manner consistent with the agency or SOE's original purposes, and that the properties must not be used for purposes that may offend the religious groups' sensitivities. Improperly used properties shall be re-appropriated by the GVN and used as a public facility such as a park or library. (Comment: this codifies what appeared to be ad hoc responses to property disputes in Hanoi and Vinh Long province. End comment.) While religious groups can be compensated with other parcels of land on a case-by-case basis by local officials, the edict cites a prior National Assembly resolution that prohibits the return of land legally confiscated by the government prior to 1991.

¶2. (SBU) In a move welcomed by Church groups, the edict stipulates that religious groups that use property not in dispute shall be granted ownership certificates. This potentially significant step allows, at least in theory, for the legal transfer of land-use rights, rents, and donations to religious organizations. On the other hand, the edict says that any effort to "cause public disorder" or "sow division" regarding disputed properties "shall be strictly dealt with in accordance with the law."

¶3. (SBU) COMMENT: Virtually every church organization in Vietnam has outstanding land claims dating back to the nationalization of property in the north in 1954 and 1975 in the south. Properly implemented, the edict represents a positive step towards solving many of these emotionally charged disputes. The key, as always, is in the implementation, and here it is perhaps best to be cautious. If history is any indicator, enforcement will likely be lax until a land dispute becomes a hot-button topic. END COMMENT.

¶4. (U) Below is Post's Unofficial Translation of Prime Minister Edict Number 1040/CT-TTg:

Prime Minister's Directive on Religion-related Land and Facilities

No. 1040/CT-TTg
Date: December 31, 2008

In implementation of the Party and State's guidelines and policies on religious affairs, over the past period, Ministries, government offices and localities have made many efforts with respect to the religious task and have achieved definite results. Religious activities have been conducted in line with laws; the majority of religious believers are at ease, pleased and reassured by the Party and State's guidelines and policies, and actively participating in national construction. Together with national developments, demands of religious believers with respect to religious activities have continually increased, including that for land and facilities. However, due to historical reasons, there has become a need to make some adjustments when addressing the management of land and

facilities in general as well as religion-related land and facilities in particular.

In order to ensure that the management of religion-related land and facilities be consistent, in conformity with law and fitting the preexisting situation, contributing to national construction and development, and strengthening national unity, the Prime Minister requests Ministries, offices, and provincial and municipal People's Committees to focus on improving the management of religion-related land and facilities, review general land use plans and provide prompt instructions on issues concerning religion-related land and facilities; and ensure the good balance between religious and national benefits.

The management and use of religious-affiliated land and facilities must be in line with policies and laws and in conformity with the following principals and points:

1. Religion and belief is the spiritual need of a group of people, which has long been in existence and will continue along the course of socialist development in our country. Believers of different religions are parts of the great national unity. The Party and State respects and ensures the right to religious practice in accordance with the law as well as legitimate demands of religious groups and believers for land and facilities for religious purposes.

2. Regarding religious establishments having legitimate demands for land and facilities for religious practice, provincial and municipal People's Committees have the responsibility to consider such demands on the basis of the State's religious policies, local land use plans and land availability to make decisions to allocate land and

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facilities to religious establishments strictly pursuant to legal procedures and processes provided by the law.

3. Religion-related land and facilities managed by or their use arranged by the State during the implementation of its policies on management of land and facilities as well as policies on socialist reformation of land and facilities promulgated before July 1, 1991, shall be handled according to the National Assembly's Resolution No. 23/2003/QH11 dated November 26, 2003 and related legal documents. Attention is to be given to the following cases:

a) Regarding religious-affiliated land and facilities managed by or their use arranged by the State: government bodies and organizations to which the land and facilities were allocated must use them strictly and efficiently for the original designated purposes without any impact on the religious sentiment of believers.

In cases where such land and facilities are not correctly and efficiently used for the designated purposes, provincial and municipal People's Committees shall retrieve and allocate them to other users to serve national interests and/or public interests; in cases where religious establishments have legitimate demands to use such land/facilities for religious purposes, provincial and municipal People's Committees may consider on a case-by-case basis allocating reasonable areas of land/facilities to the religious establishments or facilitating them in constructing new religious facilities in accordance with the law.

b) Land currently used by religious establishments for agricultural and forestry cultivation, non-agricultural business, and/or as charitable facilities, as well as land currently used by religious establishments as provided by Item 1 of Article 99 of the Land Law (including land transferred or donated to them received before July 1, 2004), and certified dispute free by Commune-level People's Committees shall be entitled to be given Land Use Rights Certificates, to be used in a way that is similar to respective legal regulations governing the use of such types of land by households and/or individuals, and/or to have their land use purposes changed as decided by provincial People's Committees. Land that was not allocated and its land-use tax not collected by the State and currently used by religious establishments for agricultural and forestry cultivation, non-agricultural business, and/or as charitable facilities shall be entitled to be transferred,

donated, leased, mortgaged with their land-use rights in accordance with legal regulations on land use.

In cases where land has already been transferred or donated to religious establishments which remains under dispute, such disputes must be definitively and lawfully settled before Land Use Rights Certificates can be issued.

c) After making its decision on a specific religion-related land use case, the competent State Authority must notify [its decision] to the relevant religious establishment and believers for their information and enforcement.

Acts which take advantage of the settlement of religious-affiliated land and facilities cases to cause public disorder, sow division among the people and undermine national unity, or breach the law shall be strictly dealt with in accordance with the law.

4) The Ministry of Natural Resources and Environment, the Ministry of Construction, relating Ministries and offices and provincial and municipal People's Committees, within their scope of functions, responsibilities and powers, shall correct the management and use of religion-related land and facilities; consider and deal with each specific case [of land use demands of religious establishments] on the basis of [the State's] religious policies and land policies, local land availability and the actual needs of the religious establishments; provide guidance to their functioning offices to continue and speed up the process of issuing Land Use Rights Certificates to eligible religious establishments in accordance with legal regulations on land use.

5) Ministries, branches and provincial and municipal People's Committees, in coordination with the Vietnam Fatherland Front and its member organizations, shall inculcate, extensively disseminate and strictly implement the Party's guidelines and policies and State laws on belief and religions, and on land and facilities, and other relating regulations.

6) Ministers and Heads of Ministry-level Agencies, Heads of Government-affiliated Agencies, and Chairpersons of provincial and municipal People's Committees, shall come up with plans to strictly implement this Directive and make annual reports to the Prime Minister.

Problems arising during the course of implementation of this Directive shall be brought to the attention of the Prime Minister

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for his/her consideration and solution.

7) The Government Committee for Religious Affairs has the responsibility to coordinate with relating offices to follow and supervise implementation of this Directive.

Recipients:

- Secretariat, CPV Central Committee;
- Prime Minister, Deputy Prime Ministers;
- Ministries, Ministry-level agencies, Government-affiliated agencies;
- Office of the Central Steering Committee on Corruption;
- Provincial and Municipal People's Councils and People's Committees;
- Office of the CPV Central Committee and Party Commissions;
- Office of the State President;
- National Assembly's Ethnic Councils and Committees;
- Office of the National Assembly;
- Supreme People's Court;
- Supreme People's Procuracy;
- State Audit Office;
- National Financial Control Committee;
- Bank of Social Policies;
- Vietnam Development Bank;
- Central Committee of the Vietnam Fatherland Front;
- Central Offices of [Mass] Organizations;
- Office of the Government
- Archives.

15. End Unofficial Translation

MICHALAK